

Transfer of Land (Ireland) Bill.

CONTENTS OF CLAUSES.

- I. On application of Owner, Land may be brought under operation of Act.
- II. Effect of bringing Land under operation of Act.
- III. Declaration and Certificate of Title.
- IV. Transfer of Land by simple Entry.
 - V. Debentures may be charged upon Land.
- VI. Priority and Negotiability of Land Debentures.
- VII. Punctual Payment of Land Debentures.
- VIII. Payment of an Owner's Judgment Debts.
 - IX. A Land Tribunal to be constituted.
 - X. Jurisdiction of Incumbered Estates Court transferred to Land Tribunal.
- XI. General Powers of Land Tribunal.
- XII. Title of Act, and Glossary.

SCHEDULE: A Land Debenture, with Particulars and Map.



(Ireland.)

A

B I L L

TO

Facilitate the Transfer of Land in Ireland.

[Note.—The words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS it is expedient to facilitate the Transfer of Preamble.
Land in Ireland; Be it enacted, by the Queen's most
Excellent Majesty, hy and with the advice and consent
of the Lords Spiritual and Temporal and Commons in this present
5 Parliament assembled, and by the authority of the same, as follows:

- I. It shall be lawful for the Owner of any land in Ireland to apply to the Land Tribunal, herein-after mentioned, to have such land brought under the operation of this Act; and if it appear that it may be expedient to bring the land, or any part of it, under this
- 10 Act the Tribunal shall direct Notice to be given to such persons and in such manner as it may deem fit; and shall investigate the Title to the land, and its existing state and circumstances; and shall hear all parties interested, who may apply for that purpose; and, thereupon, if it appear expedient and just to bring the land or
- 15 any part of it under this Act, the Tribunal shall so declare; and thenceforth the land comprised in such declaration shall be and remain under the operation of this Act.
- On application of Owner, Land may be brought under operation of Act.

Effect of
bringing
Land under
operation of
Act.

II. After any land shall have been brought under the operation of this Act, no subsequent Deed or Act of Her Majesty her heirs or successors, or of any Person or Court, shall have the effect of creating any Incumbrance thereon, save by a Deed under this Act; nor shall any such subsequent Deed or Act have the effect of creating, out of any Estate in such land, any new or less Estate: but this provision shall not prevent the Transfer, Descent or Vesting of any Incumbrance, or of the entire of any Estate, or the Merger or Enlargement of any Estate; and nothing herein contained shall prevent any person, who is entered as herein-after mentioned by the Land Tribunal as the Owner of any land, from demiseing or granting by way of Lease such land, or any part of it, or any Easement therein; provided that one part of the Lease, executed by lessor and lessee in the presence of an attesting witness, shall be deposited with the Tribunal, in such place and manner as it shall from time to time appoint; but every such Lease shall be utterly null and void as against any person who, after the making thereof and before it shall have been deposited as aforesaid, shall be entered by the Tribunal as a new Owner of the whole or any part of the land thereby expressed to be demiseed, and as against all persons deriving under such new Owner.

Declaration
and Certi-
ficate of
Title.

III. At any time, and from time to time, after any land shall have been brought under the operation of this Act, the Land Tribunal, upon the Application of the Owner for the time being, and after a full Investigation of Title, shall be at liberty to make an Order declaring all existing Estates and Interests in the land and all Incumbrances thereon; and shall cause such Order to be entered in the Books of the Tribunal, in such manner as it may think fit; and every such Entry shall, as regards any Estate, Interest or Incumbrance appearing thereon, be conclusive evidence against all persons whomsoever, including Her Majesty her heirs and successors of the matters set forth therein; and the Tribunal may at any time grant and issue to the Person so entered as entitled to any such Estate, Interest or Incumbrance, a Certificate of his Title thereto, in such form as the Tribunal may think fit.

Transfer of
Land by
simple Entry.

IV. If any person who is entered by the Land Tribunal as Owner, either solely or together with any other person, of any land, shall desire to transfer his estate therein, or if by Descent, Devise, Bankruptcy, Insolvency, Sale, Contract, or otherwise, any person shall become entitled to the Estate, or to a Transfer of the Estate, in respect whereof another person is so entered as Owner, it shall be lawful for the Tribunal, upon the application of any such Owner or person entitled, to substitute and enter in a Book or Books for that purpose, the

the person who is to appear as and be the New Owner; and the new Entry shall be in such form as the Tribunal may direct; and shall, without any deed or other assurance, suffice to vest in the person so substituted the land to which it shall relate, for all the estate and interest in respect of which the prior Owner appeared entered as such in the Books of the Tribunal; but without prejudice to any other estate, interest or incumbrance previously entered, or to any lease previously executed and deposited as by this Act provided, or to any Debenture under this Act.

- 10 V. At any time, or from time to time, after any land may have been brought under the operation of this Act, it shall be lawful for the Land Tribunal, if it deem it expedient and just, upon the application of the Owner for the time being of such land, to charge the same by means of Debentures, in the form contained in the Schedule
- 15 to this Act, or in such other form as may be approved of by the Tribunal, with such sum or sums of money, bearing interest at such rate or rates, or not bearing interest, and payable or redeemable at such time or times not exceeding *ten* years from the date and making thereof, as to the Tribunal may seem fit: Provided always, that in
- 20 the case of unincumbered land no Debenture shall be issued for such a principal sum as, either solely or together with the total amount of the principal sum or sums then already charged on the same land by virtue of any other Debenture or Debentures, shall be more than *ten* times the sum which may appear to the Tribunal to be the yearly
- 25 value of such land, having regard among other matters to any existing lease thereof; nor shall there be reserved by any Debenture upon such unincumbered land interest of such annual amount as, either solely or together with the annual interest then already reserved and charged by any other Debenture or Debentures upon the same land,
- 30 shall exceed *one half* of its yearly value; provided also, that if the charge proposed to be created by Debenture is to be *puiſne* or subject to any other incumbrance, the Tribunal shall have regard thereto, and shall estimate such other incumbrance at the full and outside value thereof, and shall so limit the Debentures, which it may think
- 35 fit to issue, that their amount shall be as amply secured as Debentures would be if charged on unincumbered land to the extent of *ten* times the yearly value thereof.

Debentures
may be
charged
upon Land.

- VI. Debentures charged on any land shall have equal priority with each other, but shall have priority over any lease executed
- 40 after the land came under the operation of this Act; and upon the issuing of any Debenture it may be transferred by the Land Tribunal by Memorandum upon the face or back thereof, in such form as the Tribunal shall think fit, to the Owner for the time being of the land

Priority and
Negotia-
bility of
Land De-
bentures.

charged therewith, or to any Incumbrancer thereon, or to such other person as to the Tribunal, having regard to the rights of all parties interested, shall appear expedient and just; and such transfer shall vest in the person to whom the same shall be made the ownership of such Dehenture and of the charge thereby created; and every such transferred Dehenture, and the monies due or to become due thereon, shall thenceforth be negotiable by Simple Delivery, and be transferable by its Holder from time to time, in like manner as a Promissory Note payable to bearer may be now negotiated and transferred.

10

Punctual
Payment of
Land De-
bentures.

VII. All monies charged, for principal or interest, by a Dehenture shall be punctually paid on or before the day or days specified therein for the payment thereof; and every such payment shall be made to the Land Tribunal, or to such person, or into such office, and in such manner, as the Tribunal may appoint; and every such payment shall operate as a full discharge for the sum so paid; and the monies so received shall be paid over to the Holder for the time being of the Dehenture, at such place and time, in such manner, and subject to such regulations, as the Tribunal shall direct: and in order to insure Punctual Payment on foot of every Dehenture, out or in respect of the land charged therewith, the Tribunal shall be at liberty to issue Attachments against the persons by whom or out of whose estate such payment ought, in the opinion of the Tribunal, to have been made, or to impose upon such persons Fines, by way of penalty, or of additional interest, or otherwise, of such amount, and payable in such manner as to the Tribunal shall seem advisable and just; and such Fines may be levied either by sale and transfer by the Tribunal, of the estates of such persons in the land whereout or in respect whereof such Punctual Payment ought to have been made, or by Writs of Attachment or of Execution, to be awarded against the bodies, or the goods and chattels of such persons, in such form and to be executed in such manner as the Tribunal may direct; and any sums levied or paid in respect of such Fines, may, after providing for the costs and expenses of the levy and proceedings incidental thereto, be applied at the discretion of the Tribunal towards the expenses of executing this Act, or towards the full indemnity and compensation of any person injured by such want of punctuality of payment, or towards any one or more of such purposes: and it shall also be lawful for the Tribunal, upon the application of the Holder of a Dehenture whereon any sum for principal or interest is in arrear, to enforce immediate payment by sale and transfer of the land charged, or by distress to be made thereon in the name of the Tribunal, or of the Holder of the Dehenture; and the Tribunal shall also be at liberty to provide for the payment of all or any of such arrears by issuing and negotiating,

15

20

25

30

35

40

negotiating, in respect of the lands charged therewith, Debentures, within such limits as to amount and subject to such provisions as in this Act contained in relation to Debentures issued upon the application of an Owner of land.

- 5 VIII. If, after any land shall have been brought under the operation of this Act, any Judgment, Decree, Rule or Order of any Court shall be obtained against a person who then is, or shall thereafter become, an Owner of such land, it shall be lawful for the Tribunal, upon the application of a Creditor to whom any Money shall by
 10 virtue of such Judgment, Decree, Rule, or Order be due and payable, to raise and levy the amount thereof by sale and transfer of the estate which such Owner shall at the Time of such Application have in all or any part of the land; and to apply the proceeds of the sale, in the first place in payment of the costs and expenses
 15 of the sale and transfer, and in the next place in payment of the monies due as aforesaid on such Judgment, Decree, Rule or Order; and subject thereto the surplus proceeds of the sale shall be paid over to the Owner and parties interested in the estate so sold, according to their respective rights, or invested in such
 20 manner for their benefit as to the Tribunal may appear expedient and just.

Payment of
an Owner's
Judgment
Debts.

- IX. The Land Tribunal shall be a Court of Record, to be called "The Land Tribunal of Ireland," and shall be constituted as hereinafter provided, that is to say:—it shall be lawful for Her Majesty
 25 her heirs and successors, by warrant under the royal sign manual, to appoint any number of persons not exceeding *three*, to be Judges under this Act, with such salaries and pensions respectively as the Commissioners of Her Majesty's Treasury may from time to time fix and appoint; and upon every vacancy in the office of any such
 30 Judge, in like manner to appoint some other person to such office; and the said persons, so to be from time to time appointed, shall be the Land Tribunal aforesaid, and shall have a Common Seal; and all acts, matters, and things which the Tribunal, or the Judges thereof, are by any of the provisions of this Act required or authorized to do or execute may be done and executed by any two of
 35 them: and every Judge appointed under this Act, shall hold his office during good behaviour: but it shall be lawful for Her Majesty her heirs and successors to remove any such Judge from his office, upon the Address of both Houses of Parliament; and no Judge of
 40 the Land Tribunal, during his continuance in office, shall practise as a Barrister-at-Law, Solicitor or Attorney, or be capable of being elected or of sitting as a Member of the House of Commons; and every Judge under this Act, before he enters upon the execution of
 his

A Land
Tribunal to
be consti-
tuted.

his office, shall take the following Oath, before one of the Justices of the Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer in Ireland (that is to say) :

" I A.B. do swear, that I will faithfully, impartially and honestly, according to the best of my judgment, fulfil all the duties of a Judge under an Act passed in the sixteenth year of the reign of Queen Victoria, entitled An Act to Facilitate the Transfer of Land in Ireland."

Jurisdiction
of Incum-
bered Estates
Court trans-
ferred to
Land Tri-
bunal.

X. On the *first day of January one thousand eight hundred and fifty-four*, all the powers, authority and jurisdiction which by the Act passed in the thirteenth year of the reign of Her Majesty, entitled "An Act for further facilitating the sale and transfer of Incumbered Estates in Ireland," are vested in the Court of the Commissioners under that Act shall, by force and virtue of this Act, be given, transferred to and vested in the Land Tribunal, in as ample a manner to all intents and purposes as the same may now be exercised by and are vested in the said Commissioners; and thenceforth all such powers authority and jurisdiction, so far as regards the exercise thereof by the said Commissioners shall wholly cease and determine; and for the purpose of exercising the powers authority and jurisdiction hereby transferred to the Land Tribunal the Judges thereof shall stand and be in the place and stead of the said Commissioners; but the provisions of the fifth Section of the said recited Act, for limiting the duration of office of the Commissioners or other Officers under that Act, shall not be applicable to the Judges or Officers under this Act; and, notwithstanding anything in the said recited Act contained, it shall, at any time after the said *first day of January one thousand eight hundred and fifty-four*, be lawful for any Owner, within the meaning of that Act, of any such land or lease as in the sixteenth and seventeenth sections thereof respectively mentioned, or for any Incumbrancer on any such land or lease, within the meaning of the said recited Act, and as therein mentioned, to apply to the Land Tribunal for a sale of such land or lease, under the powers and for the purposes of the jurisdiction hereby transferred from the said Commissioners to the Land Tribunal; and thereupon all orders and proceedings, which by the said recited Act might be made, had or taken by or in the Court of the said Commissioners, in relation to such application by such Owner or Incumbrancer, if made to the said Commissioners within the respective periods of three years by the said Sections of the said recited Act limited for the making of such application, may be made, had or taken by or in the Court of the Land Tribunal, upon such application to it by such Owner or Incumbrancer; and any land, which upon such application shall be sold by the Tribunal, shall from

from and after the Entry by the Tribunal of the sale and transfer in a Book or Books for the purpose, he and thenceforth continue under the operation of this Act; and all matters which on the said first day of January one thousand eight hundred and fifty-four shall be depending in the said Court of Commissioners, shall, by force of this Act be transferred, with all Proceedings therein, to the Court of the Land Tribunal, there to be carried on, dealt with and decided, by virtue of the powers authority and jurisdiction hereby transferred, in the same manner in every respect as if such matters and proceedings had been originally commenced in the Land Tribunal.

XI. All the powers and authority, which by the said recited Act for further facilitating the sale and transfer of Incumbered Estates in Ireland, are vested in the Commissioners under that Act for the appointment or removal of officers for the purposes thereof, shall belong to and be vested in the Judges of the Land Tribunal for the purposes of this Act; and all provisions of the said recited Act, in relation to salaries of officers and to expenses, shall, so far as they are not inconsistent with the provisions of this Act, be applicable to the salaries of officers and to the expenses under this Act; and all the provisions of the said recited Act, in relation to the framing, printing, circulation or promulgation of forms of application and directions under the said recited Act, or to the making of General Rules, and the confirmation, enrolment and effect thereof, and the laying of the same before Parliament, or to the attendance of witnesses, and the production of deeds, books, papers, documents and writings, and the examination of witnesses, and the administration of oaths, affirmations or declarations, or to the enforcing of orders made under the said recited Act, and the reception in evidence of affidavits, or to the persons or to the appointment of persons before or by whom affidavits or the examination of witnesses may be made or taken, and the administration of oaths, affirmations, or declarations for the purposes of such examination, or to the powers authority and jurisdiction of the Court of the Commissioners under the said recited Act, as a Court of Equity or otherwise for the investigation of Title, and for ascertaining and allowing incumbrances and the amounts due thereon, and the priorities thereof respectively, and the rights of owners and others, and for the other purposes mentioned in the said recited Act; or to the direction of issues, and the reference of matters or inquiries; or to the sale of land, and the application and disposition of the purchase money; or in relation to persons under the disability of minority, idiotcy, lunacy or coverture; or in relation to the abatement or suspension, costs or expenses, of proceedings under the said recited Act; or to the restraining or removal of such proceedings, or to the indemnity of the Commissioners under the said Act, or the

General
Powers of
Land Tri-
bunal.

reviewing, rescinding or varying of any order of the said Commissioners, or to an appeal therefrom, and the persons by whom such appeal may be heard and reported upon, or to false evidence, shall, so far as such provisions of that Act are not inconsistent with those of this Act, be applicable and be applied respectively to the like matters and things in relation to the Land Tribunal, and to the Judges or any one or more of the Judges thereof, and to the proceedings before the Tribunal under this Act: and any Entry made by the Tribunal under the provisions of this Act shall be construed and regarded as an Order within the meaning of this section and of the said recited Act: and private, common and negative Searches for orders and entries, and for leases deposited under this Act, may be obtained in such manner, and upon payment of such fees, and subject to such regulations, as the Tribunal may direct.

Short Title of Act. XII. In any Act of Parliament, document or proceeding this Act shall be sufficiently designated by the expression, "The Transfer of Land (Ireland) Act 1853:" 15

Glossary. And in the construction of this Act, and of this section thereof, the following words and expressions have the meanings hereby assigned to them respectively, unless there be something in the subject or context requiring a different construction; 20

"Tribunal." The word "Tribunal," or the expression "Land Tribunal," means The Land Tribunal of Ireland constituted under this Act;

"Judges." The word "Judges" means the Judges of the Land Tribunal;

"Debenture." The word "Debenture" means a Debenture charged upon Land under this Act; 25

"Person." The word "Person" extends to and includes a body politic or corporate, whether aggregate or sole, and any public company, as well as a private individual, and includes also the assignees of any bankrupt or insolvent; 30

"Estate." The word "Estate" extends to an estate in equity as well as at law, and to an equity of redemption, and to the benefit of any covenant or contract for or right of renewal;

"Lease." The word "Lease" includes an agreement for a lease, and the estate or interest created or agreed to be created by such lease or agreement, in the whole or any part of the land therein comprised; 35

"Lease in Perpetuity." The expression "Lease in Perpetuity" means any lease or grant for one or more life or lives, with or without a term of years, or for years absolute, with a covenant or agreement in any of such cases, whether in the same or any other instrument, for the perpetual renewal of such lease or grant, or with a toties quoties covenant for such perpetual renewal, whether such lease or grant be derived out of the inheritance, or by way immediate or of derivative under-lease out of any such renewable lease; 40

The

The word "Possession" includes the receipt of the rents and profits; "Possession"

The word "Owner," as applied to any land, includes any person entitled in possession to an estate in fee-simple, or under any grant in fee-farm, or under any lease in perpetuity, and also any person entitled in possession under the provisions of any will, settlement, Act of Parliament, deed or instrument (except a grant or lease reserving rent) to any estate in tail general or special, or quasi in tail, or as tenant by the curtesy, or for one or more life or lives, or other particular estate thereby created or limited, out of or in any estate of inheritance in fee-simple, or out of or in the estate created or granted by any grant in fee-farm or lease in perpetuity, and any feoffee or trustee for charitable or other purposes, entitled in possession, whether in fee or for such less estate as aforesaid; but no person, not being in possession of any land, shall by reason of any estate vested in him by way of mortgage, or for securing the payment of any sum of money, or any annual or periodical charge, be deemed an Owner of such land; and during such time as such last-mentioned person shall not be in such possession the person who would be deemed an Owner for the purposes of this act, if such estate by way of mortgage or for securing any money annual or periodical charge had not been created, shall, notwithstanding such mortgage or security, be deemed such Owner as aforesaid; and in case the person in actual occupation of the land shall not be entitled to be deemed an Owner, within the meaning of this provision, then the person who shall have the first such estate or interest as aforesaid therein, in reversion or remainder to or above the estate or interest of the person in actual occupation, as may entitle him to be deemed an Owner under this provision, shall be deemed the Owner for the purposes of this Act; "Owner"

The Word "Incumbrance" means any legal or equitable charge by mortgage, lien, judgment, decree, rule, or order, crown bond, recognizance, legacy, portion, trust, or otherwise, whereby any sum of money is secured upon or made payable out of any land; and includes a chief or other rent, annuity, or other annual or periodical charge or payment, and also any easement; "Incumbrance"

And the word "Incumbrancer" means any person entitled to such Incumbrance, or entitled to require the payment, discharge or benefit thereof. "Incumbrancer"

NEW EDITOR

K.R.—The words of Ramanujan may be used as a general fact. The words in *Justice and the Spirit* may be shown to use the special circumstances of each defendant.

AMOUNT	PARTICULARS	No. 22.	No. 23.	LAND ADVENTURE	AMOUNT
LAND ADVENTURE					
Date of executed Deed	1st July 1883			IN WITNESS OF "The Transfer of Land (Ireland) Act, 1881," the Land Tribunal of Ireland has hereby changed the tenement of Great Merrick-st in the Barony of (Shamrock) and County of Tipperary (as described in the enclosed Map and executed Memorandum) with the Land Debitors for the sum of One Hundred Pounds sterling to become due on the first day of July one thousand eight hundred and eighty-	
Principal sum	One Hundred Pounds.			with interest at the rate of five per cent. per annum, payable on every first day of January and first day of July, the first payment to be made on the first day of January next. Witness the Seal of the Land Tribunal this first day of July one thousand eight hundred and	
Principal due on	1st July 1883			1883	
Rate of Interest	Five per cent.				
Interest payable on	1st January and 1st July				
Charged upon	The tenement of Great Merrick-st in the Barony of Shamrock and County of Tipperary				
Contents of land charged	213s. 1s. 7d. statute.				
Value of land	£100 a year				
Total Land Debitors	as at £100 each in £1,000, bearing four per cent. interest.				
Special matters	The gross charges are—				
	A mortgage at five per cent. for				
	A. 1st annuity for				
	£100, valued at			750	
	A perpetual annuity for				
	£100, valued at			750	
	Total gross charges £1,500				
Amount Debited to	James Vincent of Merrick Square, Dublin.				
Date of Transfer	1st August 1883				
Return in Book of Tribunal	Land Book, Vol. 8 p. 322 (1883) Debitors Book, Vol. 8 p. 18 (1883)				
Entered by					
	Debitors Book of Land Tribunal.				

Thompson & Lawton / *U.S. Youth* 111

